

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Dontest Jabar Gerald,	)	C/A No. 1:14-288-JFA-SVH
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
James C. Galmore, Public Defender of Horry	)	
County, in his official capacity,	)	
	)	
Defendants.	)	
	)	

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The *pro se* plaintiff, Dontest Gerald, is a pretrial detainee at the Horry County Detention Center. He brings this action pursuant to 28 U.S.C. § 1915, apparently alleging a violation of his constitutional rights in connection with a federal detainer and the defendant's representation of the plaintiff in a criminal proceeding.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation and opines that the action is subject to summary dismissal. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on February 25, 2014. The plaintiff did

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

not file objections to the Report and the time within which to do so has expired. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

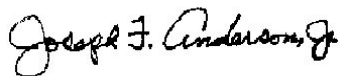
As the Magistrate Judge correctly opines, to the extent that the plaintiff seeks to bring a claim for violation of his civil rights under 42 U.S.C. § 1983, the claim is subject to summary dismissal because the defendant has not acted under color of state law. *See Polk County v. Dodson*, 454 U.S. 312 (1981).

The Magistrate Judge further suggests that to the extent the plaintiff alleges legal malpractice by the defendant who is a public defender, such claim also fails because negligence is not actionable under § 1983.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the Report and Recommendation is incorporated herein by reference, and this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

March 25, 2014  
Columbia, South Carolina



Joseph F. Anderson, Jr.  
United States District Judge